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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/714,370	11/14/2003	Sheri L. McGuire	3788	1852
22474	7590	06/29/2006	EXAMINER SPERTY, ARDEN B	
DOUGHERTY CLEMENTS 1901 ROXBOROUGH ROAD SUITE 300 CHARLOTTE, NC 28211			ART UNIT 1771	PAPER NUMBER

DATE MAILED: 06/29/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No. 10/714,370	Applicant(s) MCGUIRE ET AL.	
	Examiner Arden B. Sperty	Art Unit 1771	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 12/12/05, 3/18/06.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-7,9-17 and 29-34 is/are pending in the application.
- 4a) Of the above claim(s) 29-32 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-7,9-17,33 and 34 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### **FINAL OFFICE ACTION**

1. The currently examined claim set is that which was submitted on 3/18/06.  
Comments submitted on 3/18/06 and 12/12/2005 have been considered.
2. Applicant's amendments reflected in the claims set submitted 3/18/06 are sufficient to overcome the Claim Objections stated in the previous office action. The objections are withdrawn.
3. Claims 1-7, 9-17 and 33-34 remain rejected under 35 USC 112, first and second paragraphs, as stated below.
4. Applicant's amendments are sufficient to overcome the 35 USC 102(a) rejection of the claims rejected as anticipated by the JP 2002348766 reference in the previous office action. The JP '766 reference does not teach or fairly suggest the claimed amount of FR coated synthetic and/or natural fibers.
5. The Assink reference 2004/0028958 is withdrawn per Applicant's comments, as explained herein.
6. Pertinent prior art is cited herein, but cannot be precisely applied to the claim limitations due to the resounding issues under 35 USC 112. This office action is made final as it does not contain any new grounds of rejection.

### ***Claim Rejections - 35 USC § 112***

7. Claims 1-7 and 9-17 remain rejected under 35 USC 112, first paragraph, because the scope of "uncoated" is not clearly set forth. Applicant points to sections of the specification, but these sections do not clearly define the scope of "uncoated" as used in

the claims. The claims also remain rejected under 35 USC 112, second paragraph, because it is not clear what exactly is intended by "uncoated." Applicant's specification does not limit "uncoated" to refer only to "uncoated with FR resin." Therefore, for searching purposes, "uncoated" is interpreted broadly to refer to not just FR resin. Applicant mentions on page 9, of the response dated 12/12/05, that uncoated fibers are "uncoated by FR resin." If Applicant intends "uncoated by FR resin," the claims need to be drafted as such, while taking care to avoid the introduction of new matter. New claims 33 and 34 are similarly rejected under 35 USC 112, first and second paragraphs.

8. Claim 2 remains rejected under 35 USC 112, second paragraph, because it has not been amended to resolve the outstanding issue of a broad limitation followed by a narrow limitation. On page 6 of the response dated 3/18/06, Applicant refers to an amended version of claim 2. The amendment proposed on page 6 appears to overcome the 35 USC 112, second paragraph, rejection, but it appears that the claim inadvertently does not reflect the amendment. Appropriate correction will result in withdrawal of the rejection.

### ***Double Patenting***

9. Claims 1-7 and 9-17 remain provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-24 of copending Application No. 10/392999. Although the conflicting claims are not identical, they are not patentably distinct from each other because the claims are drawn

to overlapping inventions. The amounts of each component would have been easily determined. New claims 33 and 34 are similarly rejected.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

### ***Response to Arguments***

10. The rejections in view of US Publication 2004/0028958 to Assink are withdrawn per Applicant's comments. The boric acid and/or sodium polyborate treatments taught by the prior art do not anticipate a "FR resin."

### ***Conclusion***

11. The following prior art is made of record for the reasons stated, and is considered pertinent to applicant's claimed invention:

GB 2152542 teaches blending FR fibers to obtain better fabrics.

JP 2005226034 teaches FR resin additives for resins intended for use as coating agents, etc.

JP 01289865 teaches FR resin coated carbon fibers.

US Publication 2004/0198125 teaches flame retardant nonwovens and suitable binder fiber materials.

US Patent 4970111 teaches fire retarding nonwovens and suitable binder fiber materials.

US Patent 4943478 teaches fire retarding carbon fibers and binder fibers, in nonwoven form.


Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

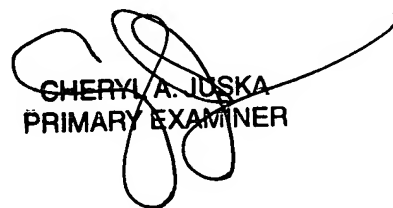
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Arden B. Sperty whose telephone number is (571)272-1543. The examiner can normally be reached on M-Th, 08:00-16:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel Morris can be reached on (571)272-1478. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

  
Arden B. Sperty  
Examiner  
Art Unit 1771

June 21, 2006

  
CHERYL A. JUSKA  
PRIMARY EXAMINER